IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4172 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ORIENTAL INSURANCE CO LTD

Versus

RAGHUBHAI MAVJIBHAI BHIL

Appearance:
MS AVANI S MEHTA for Appellant No.1
MR SURESH M SHAH with MR M.S. SHAL for Respondent

CORAM : MR.JUSTICE N.G.NANDI
and
MR.JUSTICE J.R.VORA

Date of decision: 02/05/2002

ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. This Appeal under Section 173 of the Motor Vehicles Act is directed against the award and judgment

dated 6.9.1999 passed under section 163A of the Motor Vehicles Act in Motor Accident Claim Petition No. 675/97 before the Motor Accident Claims Tribunal, Kachchh at Bhuj. At the outset it is stated by Mr. Mehul S. Shah, learned counsel for the respondent claimant that the application under Section 163A and the impugned order passed thereunder is treated as final by the respondent claimant and the respondent claimant will not proceed further with the application under Section 166 of the Motor Vehicles Act, which is pending before the Claims Tribunal and that necessary statement would be made before the Claims Tribunal for the withdrawal of the Application under Section 166 of the Act.

2. The present Appeal is confined only to the grant of interest at the rate of 12% on the amount awarded under Section 163A by the Act by the Claims Tribunal. In the impugned Award under Section 163A, the Tribunal has awarded Rs. 3,56,000/- with running interest at the rate of 12% p.a. from the date of the application Exh.6 till realization from both the Opponents Nos. 2 and 3 jointly and severally.

3. It is stated by Mr. Mehul S. Shah, learned Advocate for the claimant - respondent that in view of the facts and circumstances of the present case, he agrees to the reduction of the interest at the rate of 12% as awarded by the Tribunal. In view of the above statement fairly made by the learned counsel for the respondent - claimant, the impugned award is modified to the extent that the amount of Rs. 3,56,000/- shall carry the interest at the rate of 9% per annum from the date of application till the realization of the amount instead of 12% per annum as granted by the Tribunal in the impugned award. The appeal is partly allowed to this extent. The amount of Rs. 25,000/- deposited by the appellant Insurance Company in this Appeal in the Registry of this High Court be transmitted to the Claims Tribunal forthwith, if it is not transmitted so far.

4. Appeal stands disposed of accordingly. No order as to costs.

5. In view of the above order passed in the main matter, Civil Application No. 6326/2000 does not survive and is disposed of accordingly. Rule is discharged. Ad interim relief granted earlier stands vacated.

(N.G. Nandi, J.)

(J.R. Vora, J.)

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